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Paper No. 15

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FEB 19 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Zhenyu Wang
Application No. 09/324,304
Filed: June 2, 1999
For: **CONSTELLATION DESIGN FOR
MODEM RECEIVER**

:
: **DECISION ON PETITION TO**
: **WITHDRAW HOLDING OF**
: **ABANDONMENT**
:
:

This is a decision on the petition filed November 13, 2003, to withdraw the holding of abandonment pursuant to 37 CFR § 1.181 (a). No fee is required.

The application was abandoned for failure to timely file a response to the Final Office Action mailed December 23, 2002. A Notice of Abandonment was mailed November 3, 2003.

Petitioner alleges that the finality of the outstanding Office action had been withdrawn and provides a copy of an interview summary stating as much.

MPEP 706.07(e) States in part:

Once a final rejection that is not premature has been entered in an application/reexamination proceeding, it should not be withdrawn at the applicant's or patent owner's request except on a showing under 37 CFR 1.116(b). Further amendment or argument will be considered in certain instances. An amendment that will place the application either in condition for allowance or in better form for appeal may be admitted. Also, amendments complying with objections or requirements as to form are to be permitted after final action in accordance with 37 CFR 1.116(a).

The examiner may withdraw the rejection of finally rejected claims. If new facts or reasons are presented such as to convince the examiner that the previously rejected claims are in fact allowable or patentable in the case of reexamination, then the final rejection should be withdrawn... When a final rejection is withdrawn, all amendments filed after the final rejection are ordinarily entered. [emphasis added]

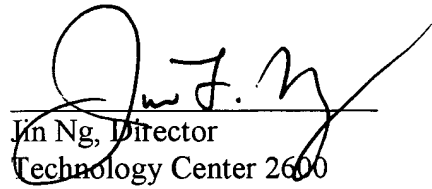
An interview summary between Supervisory Patent Examiner Chi Pham and Applicant's representative Demetria Williams (paper No. 12, mailed March 19, 2003), states in part "The finality of the rejection submitted to Applicant's representative on December 23, 2002 has been withdrawn".

Therefore, Applicant's after final amendment (paper No. 10) submitted February 18, 2003 should have been entered effectively stopping any time period for response.

Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

For the reasons above, the petition is **GRANTED**.

The application file is forwarded to TC2600's Technical Support staff for entry of the after final amendment (paper No. 10). From there, the application will be forwarded to the examiner for action.



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